

REMARKS/ARGUMENTS

1. Status

Favorable reconsideration of this application, as currently amended and in light of the following remarks, is respectfully requested.

In the Office Action mailed November 29, 2006, the Examiner objected to the title of the invention as being not descriptive; claims 1-49 were objected to because of informalities; claims 21, 22, 48, and 49 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; claims 1-18 and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Stansfield ("The Effects of Feedback and Goal Setting on Manufacturing Productivity Improvement: A Field Experiment in Manufacturing Cells"); claims 26-42 and 45-55 were rejected under 35 U.S.C. § 102(b) as being anticipated by Maskell ("Performance Measurement for World Class Manufacturing: A Model for American Companies"); claims 19, 20, 23, and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stansfield in view of Maskell; claims 21 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stansfield in view of Maskell, and further in view of Moldflow ("Moldflow Announces the Release of EZ-Track 1.0; Next Generation Shop Floor system for Plant-Wide Tracking of Production, Machines, Labor and Materials in Real-Time"); and claims 43 and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Maskell in view of Moldflow.

In this reply, Applicant amends claims 1, 4, 9, 20, 21, 26, 32, 33, 48, and 50; cancels claims 36-38, 40, and 41 without prejudice or disclaimer; and adds new claims 56-60. Claims 1-35, 39, and 42-60 are thus currently pending. The amendments to the

claims are supported by the originally-filed application, as explicitly set forth in Section 10 infra for the convenience of the Examiner. No new matter has been added.

2. Reply to the Objection to the Title

Applicant appreciatively acknowledges the suggested title provided by the Examiner. Applicant has taken this suggestion into account in amending the title to “a method of tracking progress on a task by recording variances between target and actual numbers of subtasks performed.” Applicant respectfully submits that the title is now sufficiently descriptive and respectfully requests that the objection to the title be withdrawn.

3. Reply to the Objection to Claims 1-49

Applicant amended claims 1, 9, 26, 32, 48, and 50 to replace all instances of “timeslot” or “timeslots” with “time slot” or “time slots,” respectively, which was the intended spelling. Applicant also amended claims 26 and 48 to replace all instances of “sub-subtasks” with “subtasks,” as pointed out by the Examiner. In addition, Applicant amended claims 4 and 20 to provide consistent reference to “at least one worker.” Therefore, Applicant respectfully submits that the informalities have been corrected and, having canceled claims 36-38, 40, and 41 without prejudice or disclaimer, respectfully requests that the objection to claims 1-35, 39, and 42-49 be withdrawn.

4. Reply to the Rejection of Claims 21, 22, 48, and 49 under 35 U.S.C. § 112,

Second Paragraph

Applicant amended claim 21 to replace “employee” with “worker” and claim 48 to replace “the reason” with “the at least one reason,” which is preceded in the claim by “at least one reason,” thus providing sufficient antecedent basis. Therefore, Applicant

respectfully submits that the informalities have been remedied and respectfully requests that the rejection of claims 21, 22, 48, and 49 under 35 U.S.C. § 112, second paragraph, be withdrawn.

5. Reply to the Rejection of Claims 1-18 and 25 under 35 U.S.C. § 102(b)

Applicant respectfully requests favorable reconsideration of the rejection of claims 1-18 and 25 as being anticipated by Stansfield for the reasons set forth below.

Claim 1 is directed to a “method for tracking progress . . . on a task over a period of time” and recites, inter alia, “dividing the period of time into a plurality of time slots,” “recording a variance between the actual number of subtasks completed and the target number associated with each time slot,” and “recording an accumulated variance associated with each time slot.”

The Office Action asserts at page 6 that Stansfield teaches “recording an accumulated variance associated with each time slot.” Applicant respectfully disagrees. The cited passages of Stansfield do indicate that “[f]eedback was given three times a week,” that “weekly goals of performance . . . will be measured and completed daily. . . . at the end of the shift,” that “[t]he information will be made public,” and that “[w]ith graphic feedback, employees can more closely monitor their individual performance levels.”

However, with regard to the specific feedback being provided, Applicant respectfully submits that Stansfield, as illustrated in Exhibits 1 and 2, does not teach or suggest “recording an accumulated variance associated with each time slot.” To that effect, Exhibit 1 only shows a percentage for any given day, and Exhibit 2 illustrates daily and weekly totals, but no accumulated variance for any of the day or hour rows.

Even assuming, *arguendo*, that the (%) column would amount to a productivity “variance,” which Applicant denies, the entries in the (%) column would then merely represent the variance for their row’s particular hour or day, and would not display an “accumulated variance,” as recited by claim 1.

Anticipation under 35 U.S.C. § 102(b) requires that the cited reference “teach every aspect of the claimed invention either explicitly or impliedly” and that “[a]ny feature not distinctly taught must be inherently present” (M.P.E.P. § 706.02). Therefore, because Stansfield does not teach or suggest, given its general descriptions and clear illustrations of what parameters are recorded, “recording an accumulated variance associated with each time slot” as recited in claim 1, and because the Office Action does not assert inherency, Applicant respectfully traverses the rejection of claim 1 and dependent claims 2-18 and 25 as being anticipated by Stansfield. Reconsideration is requested.

6. Reply to the Rejection of Claims 26-42 and 45-55 under 35 U.S.C. § 102(b)

With regard to claims 26 and 48, and in the spirit of moving prosecution forward, and without admitting that the claims as originally presented are unpatentable over the prior art, Applicant has amended claims 26 and 48. Applicant reserves the right to present original claims 26 and 48, or similar claims, in a continuation application and to address any related issues in the continuation. Amended claim 26 recites “displaying a plurality of predetermined reasons for the variance between the actual number of subtasks completed and the target number” and “selecting at least one reason among the plurality of predetermined reasons.” Similarly, amended claim 48 recites “providing a variance card including a plurality of predetermined variance reasons to the at least

one worker,” “selecting at least one reason from the predetermined variance reasons,” and “recording a total variance for the predetermined period of time and the at least one reason selected on the variance card in a log.”

Claims 26-42 and 45-55 were rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Maskell. Applicant traverses the rejection of claims 26 and 48 for the reasons below.

Maskell generally asserts that “[w]orld class manufacturing plants often display the results of the performance measures continuously throughout the day on boards, charts, or graphs” (page 33) and that “serious quality deviations are monitored to detect any recurring patterns” (page 37). Maskell does not, however, teach or suggest the aforementioned features of amended claims 26 and 48. Applicant further notes, in this respect, that the Office Action concedes at page 24 that “[n]either Stan[s]field nor Maskell expressly teach providing a variance card, which includes a plurality of *predetermined* reasons which may be checked off to record the reason for variance.”

Therefore, Applicant respectfully submits that amended independent claims 26 and 48 are not anticipated by Maskell and respectfully requests favorable reconsideration of claims 26 and 48, and dependent claims 27-35, 39, 42, 45-49, and 52, which depend from one of claims 26 and 48.

With regard to claim 50, Applicant respectfully traverses the rejection of claim 50 as being anticipated by Maskell for the reasons set forth below.

Applicant respectfully submits that Maskell does not teach or suggest “recording an accumulated variance associated with each time slot” as recited in claim 50. Maskell does indicate at page 95 that “detailed information is summarized for the whole day’s

activities within each sell, and then summarized up to the month number for month-to-date and year-to-date analysis” and that the total variance in quantity is “totalled for each day at each cell and then totalled for the period-to-date.” As such, even if one were to interpret each day as a time slot and assume, *arguendo*, that Maskell’s “period-to-date” variance is “an accumulated variance,” which Applicant denies, Maskell would then only teach a single accumulated variance relating to all previous days and not an accumulated variance associated with *each* day.

Therefore, because Maskell does not teach or suggest at least “recording an accumulated variance associated with *each* time slot” as recited in claim 50, Applicant respectfully traverses and requests favorable reconsideration of the rejection of claim 50 and dependent claim 51 as being anticipated by Maskell.

Finally, Applicant respectfully traverses the rejection of claims 53-55 as being anticipated by Maskell for the reasons set forth below.

Claims 53-55 depend, directly or indirectly, from independent claim 1, which was not rejected as being anticipated by Maskell. Accordingly, Applicant respectfully submits that the rejection of claims 53-55 under 35 U.S.C. § 102(b) based on Maskell is improper and respectfully requests that the rejection be withdrawn.

7. Reply to the Rejection of Claims 19, 20, 23, and 24 under 35 U.S.C. § 103(a)

Applicant respectfully submits, for the reasons set forth in Sections 5 and 6 that neither Stansfield nor Maskell teaches or suggests “recording an accumulated variance associated with each time slot” as recited in claim 1. Accordingly, Stansfield and Maskell, whether taken alone or in any proper combination, do not teach all the features of claims 19, 20, 23, and 24, which depend from independent claim 1. Therefore,

Applicant respectfully requests favorable reconsideration of the rejection of claims 19, 20, 23, and 24 as being unpatentable over Stansfield and Maskell.

8. Reply to the Rejection of Claims 21 and 22 under 35 U.S.C. § 103(a)

Applicant respectfully submits, for the reasons set forth in Sections 5 and 6 that neither Stansfield nor Maskell teaches or suggests “recording an accumulated variance associated with each time slot” as recited in claim 1. Applicant further submits that Moldflow, which discusses a shop floor system used “to capture, store, view, and understand what is taking place throughout an entire plant, in real-time” (page 2, first paragraph), also does not teach or suggest “recording an accumulated variance associated with each time slot” as recited in claim 1. Accordingly, Stansfield, Maskell, and Moldflow, whether taken alone or in any proper combination, do not teach all the features of claims 21 and 22, which depend from independent claim 1. Therefore, Applicant respectfully requests favorable reconsideration of the rejection of claims 21 and 22 as being unpatentable over Stansfield, Maskell, and Moldflow.

In addition, the Office Action asserts at page 24 that “Mo[l]dflow teaches recording and classifying, via a plurality of predetermined classification codes/categories, reasons for variances (inefficiencies) related to workers, processes and /or machines” with a purpose to “identify inefficiencies and correct those problems.”

Moldflow does mention that its system “detects downtime automatically and allows classification into an unlimited number of causes” (page 2, third paragraph). However, Applicant respectfully submits that Moldflow does not disclose a variance card that includes a plurality of predetermined reasons which may be checked off as recited in claim 21. First, Moldflow does not teach or suggest that its downtime causes are

predetermined. Moreover, the fact that Moldflow qualifies its downtime causes as “unlimited” suggests that these causes are not predetermined but rather are specified by a user at the time of classification. Second, Moldflow does not teach or suggest that its downtime causes may be checked off as recited in claim 21. Again, the fact that Moldflow qualifies its causes as “unlimited” would seem to suggest that a user does not check off anything but rather inputs whatever cause is appropriate in the situation.

Therefore, Applicant respectfully requests, for these additional reasons, favorable reconsideration of the rejection of claims 21 and 22 as being unpatentable over Stansfield, Maskell, and Moldflow.

Applicant further respectfully submits that the Moldflow reference appears to be a marketing-type of business communication that merely lists general concepts like “tak[ing] a snapshot of [the] production process” (page 2, second paragraph) or “display[ing] hundreds of statistics” (page 2, seventh paragraph) but does not substantiate how these concepts are actually carried out or implemented. If the Examiner has additional published information about the Moldflow system that more specifically discusses these concepts, Applicant respectfully request a copy to take that information in consideration during prosecution.

9. Reply to the Rejection of Claims 43 and 44 under 35 U.S.C. § 103(a)

Applicant respectfully submits, for the reasons set forth in Sections 6 and 7 that neither Maskell nor Moldflow teaches or suggests “displaying a plurality of predetermined reasons for the variance between the actual number of subtasks completed and the target number” and “selecting at least one reason among the plurality of predetermined reason” as recited in claim 26. Accordingly, Maskell and

Moldflow, whether taken alone or in any proper combination, do not teach all the features of claims 43 and 44, which depend from independent claim 26. Therefore, Applicant respectfully requests favorable reconsideration of the rejection of claims 43 and 44 as being unpatentable over Maskell and Moldflow.

10. Presentation of New Claims

Applicant has added claims 56-60 to vary the scope of protection recited in the claims. Claim 56 finds non-limiting support in the originally-filed application at least in original claim 43. Claims 57-60 find non-limiting support in the originally-filed application at least in Fig. 4.

11. Concluding Remarks

The Office Action contains characterizations of the claims and of the prior art with which Applicant does not necessarily agree. Accordingly, unless expressly set forth otherwise, Applicant declines to subscribe to any characterizations of the claims and of the prior art in the Office Action.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Elizabeth M. Burke
Reg. No. 38,758